

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:045780



128

CRM-M-43398-2025 (O&M)

Date of decision:23.03.2026

Lokesh Kumar

... Petitioner

Vs.

U.T. Chandigarh

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vinay Yadav, Advocate and
Mr. Shubham Dogra, Advocate for the petitioner.

Mr. Ankur Bali, Additional Public Prosecutor, U.T., Chandigarh.

Mr. Rajiv Kumar Trikha, Advocate for the complainant.

...

Manisha Batra, J. (Oral).

1. The instant petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking benefit of regular bail in case arising out of FIR No.51 dated 21.04.2022, registered under Sections 420, 467, 468 and 471 of IPC (offence under Section 201 of IPC was added lateron), at Police Station Sector-3, Chandigarh.

2. The aforementioned FIR was registered on the basis of complaint filed by complainant – Ashok Kumar, alleging that he along with his wife was interested to purchase some property in Chandigarh. He was

introduced by his colleague Ashwani Kumar with the petitioner. The said Ashwani Kumar had already agreed to purchase 30% share of a house bearing No.1504, Sector-7, Chandigarh with the petitioner. The petitioner has represented them that he was absolute owner of 50% of the above said property and willing to purchase remaining 50% share in the same and to make reconstruction over the same. On being allured by the petitioner, the complainant and his wife agreed to purchase 20% share in the above said property for a sum of Rs.65 lakhs. The complainant transferred an amount of Rs.13 lakhs in favour of the petitioner. Subsequently, Ashwani Kumar backed out from the agreement to purchase 30% share. The petitioner executed a revised agreement qua that 30% share in favour of the complainant and his wife for a sum of Rs.72 lakhs. He signed an affidavit declaring that he was absolute owner of 50% share of the property. The last date for execution of sale deed was fixed for 31.03.2018. On his asking, the complainant and his wife transferred the remaining sale consideration amount in favour of the petitioner. However, thereafter he started putting of the matter by getting the dates for registration of sale deed extended and lastly the same was fixed for 15.02.2019 but the petitioner failed to perform his part of the agreement. He stopped responding to the messages sent by the complainant and in this manner, duped him of an amount of Rs.63 lakhs.

3. On receipt of complaint, initially an inquiry was conducted into the matter and it was revealed that the aforementioned house was originally allotted to one Joginder Singh and after his death, was transferred in the name of four persons including one Smt. Rachni Devi, who had died on 27.07.2012. The petitioner prepared a forged agreement to sell dated

10.05.2017 in his favour on the basis of which, he had allured and trapped the complainant by executing agreements in his favour and defrauded him to the tune of Rs.63 lakhs. The petitioner was joined into investigation in this case on 16.10.2023 as he was arrested in another case bearing FIR No.132, dated 09.12.2022, registered at Police Station Mullanpur and was in custody. He was interrogated and suffered disclosure statement admitting his involvement in the crime and also that he had destroyed the agreement dated 10.05.2017 which was claimed to be executed in his favour. Investigation now stands completed and the petitioner is facing trial for commission of the aforementioned offences.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since long. The subject offences are triable by the Magistrate. There is inordinate delay in lodging of the FIR. The trial will take considerable time to conclude. No useful purpose would be served by detaining him in custody anymore. He is on bail in other cases as registered against him. It is, thus, argued that the petition deserves to be allowed.

5. Per contra, learned State counsel assisted by learned counsel for the complainant has vehemently argued that the allegations against the petitioner are serious in nature. He is a habitual offender as he is involved in several other cases of similar nature. There are chances of his absconding or committing similar offences, if extended benefit of bail. Even otherwise the trial is going at a proper pace as 19 out of 23 prosecution witnesses have already been examined. The petitioner has also been convicted in cases under Section 138 of the Negotiable Instruments Act. It is, thus, stressed that he

does not deserve to be extended the benefit of bail.

6. This Court has considered the rival submissions.

7. The petitioner is alleged to have duped the complainant of a huge amount of money on the basis of a false and forged agreement to sell, purported to have been executed in his favour by the original owner. The allegations make out a *prime facie* case for commission of the subject offences against him. However, he has remained in custody for a period of over 02 years, 05 months and 12 days. His involvement in other cases cannot be considered to be a reason for denying him benefit of bail to him. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody for an indefinite period of time. This principle is a part of the broader approach emphasizing that law prefers bail over jail, aiming to balance the right of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since settled proposition of law is that detention prior to trial should not become punitive. It is also well settled proposition of law that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such cases, when there is delay in conclusion of trial without there being any fault on the part of the accused, he becomes entitled to be released on bail. As such, this Court is of the considered opinion that no fruitful purpose would be served by detaining the petitioner in custody. It is also well settled proposition of law that the bail is the rule and jail is an exception and that pre-trial incarceration should not be a replica of post-conviction sentencing. Keeping in view the above facts and circumstances but without meaning to

make any comment on the merits of the case, lest it prejudice the case of either of the parties, the petition is allowed, and the petitioner is ordered to be admitted to bail subject to his furnishing personal bonds as well as surety bonds by two sureties in the like amount each to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned and further subject to the condition that he shall surrender his passport, if any, during the pendency of the trial. He shall visit the Police Station concerned on the first Monday of every alternative month during the trial of the case. The petitioner shall upon his release give his mobile phone number to concerned IO/SHO and shall keep his mobile phone switch on all times. He shall provide his address where he would be residing after release and shall not change the same without informing the concerned IO/SHO. The SHO concerned shall record his presence and in case, the petitioner does not abide by this condition, then he shall intimate the trial Magistrate who shall be at liberty to cancel the bail of the petitioner on this ground alone.

8. A copy of this order be sent to the SHO concerned.

23.03.2026

harjeet

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No

(MANISHA BATRA)
JUDGE